

APPENDIX

AIRPORT ZONING ORDINANCE

Section I. Purpose and Intent.

It is the purpose of this section to regulate the use of property and restrict the height of structures and objects of natural growth in the vicinity of the Waukesha County Airport to promote the public health, safety, convenience, and general welfare. This section is intended to protect the people living in the vicinity of the airport, the aircraft taking off from or landing at the airport, the future uses of said airport, and the public and private investment in the airport.
(Ord. No. 149-109, §1,1-24-95)

Section II. Definitions.

As used in this ordinance, unless the context otherwise requires:

Airport means the Waukesha County Airport located in Sections 22, 26, 27, 28 and 34, Town 7N, Range 19E, Waukesha County, Wisconsin.

Airport hazard means any structure or object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

Non-conforming use means any structure or tree or use of land which does not conform to a regulation prescribed in this ordinance or an amendment thereto as of the effective date of such regulation.

Person means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Structure means any object constructed or

installed by man.

Trees means any object of natural growth, except shrubs, bushes or plants which do not grow to a height of more than twenty (20) feet.

Runway means a level portion of an airport having a surface specially developed and maintained for the landing and take-off of aircraft.

Height means the overall height of the top of a structure as measured by the United States Geological Survey Mean Sea Level Datum, including any appurtenance installed thereon, or the top of any object of natural growth.

(Ord. No. 149-109, § 1, 1-24-95)

Section III. Zones.

All zones established by this section are as shown on the maps (Drawing No. A8421) dated December 22, 1994 entitled, "Height Limitation Zoning Map for Waukesha County airport, Waukesha, Wisconsin", which is on file in the department of park and planning.

(Ord. No. 149-109, § 1, 1-24-95)

Sec. IV. Height limitation zones.

Except as otherwise provided in this ordinance, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location, and no trees shall be allowed to grow to a height in excess of the height limit indicated on the map referred to in Section III thereof.

(Ord. No. 149-109, § 1, 1-24-95)

Section V. Use restrictions.

Notwithstanding the provisions of Section IV of this ordinance, no use may be made of land in any zone in such a manner as to create electrical interference with radio communication between the airport and aircraft, or make it difficult for pilots to distinguish between airport lights and others, or result in glare in the eyes of pilots using the airport, or impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off or maneuvering of aircraft.

(Ord. No. 149-109, § 1, 1-24-95)

Section VI. Exceptions.

The restrictions contained in Section IV shall not apply to objects which are less than thirty-five (35) feet in height above ground level at the object site within one-half (1/2) mile of the airport boundary or to structures less than fifty (50) feet in height above ground within the area beginning one-half (1/2) mile from the airport boundary and extending to three miles from the airport boundary.

(Ord. No. 149-109, § 1, 1-24-95)

Section VII. Non-conforming uses and structures.

(a) *Not retroactive.* The regulations prescribed in Sections III and IV of this ordinance shall not be construed to require the removal, lowering or other change or alteration of any non-conforming use or structure, or otherwise interfere with the continuance of any non-conforming use or structure, except as otherwise provided by Section IX(b) unless said use of structure was commenced or structure erected in contradiction to any prior airport height ordinance in effect in this area.

(b) *Changes .* Nothing herein contained shall require any change in the construction, alteration or

intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this ordinance, and if such is diligently prosecuted.

(c) *Removal.* This section shall not interfere with the removal of non-conforming uses by purchase or the use of eminent domain.

(Ord. No. 149-109, § 1, 1-24-95)

Section VIII. Administration.

(a) It shall be the duty of the Waukesha County Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the zoning administrator upon a form furnished by the administrator. Applications for permits or variances shall be granted or denied within ten (10) working days of the date of filing of the application(s) unless Federal Aviation Administration approval is requested. A fee as may be established and periodically modified from time to time by the Waukesha County Park and Planning Commission by commission resolution and approved by the county executive shall accompany each permit application.

(b) In the event that an applicant is aggrieved by a decision of the Waukesha County Zoning Administrator, a notification of appeal may be filed as specified in section 59.99(4) of the Wisconsin Statutes. Additionally, the applicant shall file a copy of the appeal with the Waukesha County Airport Commission through its airport manager.

(Ord. No. 149-109, §1,1-24-95)

Section IX. Permits.

(a) *Future uses.* No structure shall hereafter be constructed, erected or installed, or be

permitted to remain in any zone created by Section III of this ordinance until the owner or his agent shall have applied in writing for a permit therefor and obtained such permit from the zoning administrator, except structures less than thirty-five (35) feet in height above the ground and within one-half (V2) mile of the airport boundary and structures less than fifty (50) feet in height above the ground within the area beginning one-half (Y2) mile from the airport boundary and extending to three (3) miles from the airport boundary. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. Application for such permit shall indicate the use for which the permit is desired, and shall describe and locate the use with sufficient particularity to permit the zoning administrator to determine whether such use would conform to the regulations herein prescribed. If such determination is in the affirmative, the zoning administrator shall issue the permit applied for. The county shall have the right to trim, prune, or remove at the county's expense any tree which was planted after adoption of this ordinance and found to be in violation of the height restriction for the zone in which it is located.

(b) *Existing uses.* Before any non-conforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed by paragraph (a) authorizing such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this ordinance [Ord. No.149-109], or than it was when the application for permit was made.

(Ord. No. 149-109, §1,1-24-95)

Section X. Hazard marking and lighting.

Any permit or variance granted under Sections IX or XII may, if such action is deemed advisable by the zoning administrator to effectuate the

purpose of this ordinance and if such is reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question to permit the owner of the airport, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard- add.

(Ord. No. 149-109, § 1, 1-24-95)

Section XI. Board of appeals.

The Waukesha County Board of Adjustment created pursuant to section 59.99 of the Wisconsin Statutes is hereby designated the board of appeals under this ordinance. (Ord. No. 149-109, § 1, 1-24-95)

State law reference - Board of appeals required, Wis. Stat. § 114.136(4).

Section XII. Appeals and review.

(a) *Variances.* Upon appeal in special cases the board of appeals may, after investigation and public hearing, grant such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and such relief will do substantial justice and be in accord with the spirit of this ordinance, and does not create a hazard to the safe, normal operation of aircraft. A fee as may be established and periodically modified from time to time by the Waukesha County Park and Planning Commission by commission resolution and approved by the county executive shall accompany each appeal.

(b) *Aggrieved person.* Any person aggrieved or affected by any decision or action of the zoning administrator made in his administration of this ordinance may appeal such decision or

action to the board of appeals as provided in section 59.99(4) of the Wisconsin Statutes.

(c) *procedure* . Any appeal taken pursuant to this section shall be in conformity with the procedure established by section 59.99(3) through (9) inclusive of the Statutes. Upon making an appeal, the person making such appeal shall file an additional copy of the appeal with the Waukesha County Airport Commission through its airport manager.

(Ord. No. 149-109, § 1, 1-24-95)

Section XIII. Judicial review.

Any person aggrieved, or any taxpayer affected by any decision of the board of adjustment may appeal to the circuit court as provided in section 59.99(10) of the Wisconsin Statutes.

(Ord. No. 149-109, § 1, 1-24-95)

Section XIV. Penalties.

Any person violating any of the provisions of this ordinance shall, upon conviction, forfeit not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) for such offense, together with the costs of prosecution, and in default of payment of such forfeitures and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

(Ord. No. 149-109, § 1, 1-24-96)

State law reference - Authorized penalty, Wis. Stat. § 114.136(5).

Section XV. Severability.

If any of the provisions of this ordinance or the application thereof to any persons or

circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

(Ord. No. 149-109, § 1, 1-24-95)

SECTION 1.0. INTRODUCTION

1.1. Authority.

These regulations are adopted under the authority granted by sections 59.971(3), 144.26, and 236.45 of the Wisconsin Statutes. Therefore, the Board of Supervisors of the County of Waukesha, Wisconsin do ordain, as follows:

1.2. Purpose.

The purpose of this ordinance is to supplement the provisions of chapter 236 and to promote the public health, safety and general welfare of Waukesha County; to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; and, to facilitate the further resubdivisions of larger tracts into smaller parcels of land. The provisions of this ordinance are made with reasonable consideration, among other things, of the character of the county, with a view of conserving the value of the buildings placed upon the land providing the best possible environment for human habitation, and encouraging the most appropriate use of land throughout the county.

1.3. Abrogation and greater restrictions.

It is not the intent of this ordinance to repeal, abrogate, annul, impair or interfere with existing rules and regulations governing the subdivision of land; provided, however, that where this ordinance is more restrictive, the provisions of this ordinance shall govern.

1.4. Interpretation.

The provisions of this ordinance shall be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.5. Non-liability.

Waukesha County does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the county board of supervisors, its agencies, or employees for any flood damages that may occur as a result of reliance upon, or conformance with this ordinance.

1.6. Title.

The name of this ordinance [is and this ordinance] shall be known as the Floodland and Shoreland Subdivision Control Ordinance for Waukesha County.

1.7. Effective date.

This ordinance shall be effective after adoption by the Waukesha County Board of Supervisors and publication or posting as provided by law.

SECTION 2.0. GENERAL PROVISIONS

2.1. Jurisdiction.

The jurisdiction of this ordinance shall apply to all lands, and water within the unincorporated floodland and shoreland areas of Waukesha County, Wisconsin; however, subdivision plats which lie outside of the above defined area must be reviewed by the county park and planning commission before approval by the municipality and before recording as prescribed by chapter 236, Wisconsin Statutes. Where a town has adopted a subdivision control ordinance, the provisions of this ordinance shall apply where they are more restrictive than the town ordinance.

(A) *Exceptions.* In no instance shall the provisions of this ordinance apply to:

1. Transfer of interest in land by will or pursuant to court order;
2. Leases for a term not to exceed ten (10) years, mortgages or easements;
3. The sale or exchange of parcels of land between owners of adjoining property, if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance or other applicable laws or ordinances.

2.2. Compliance.

No persons, firm or corporation shall divide any lands located within the jurisdictional limits of these regulations which results in a subdivision, minor land division or replat as defined herein; no such subdivision, minor land division or replat shall be entitled to record; and, no street shall be laid out or improvements made to land without compliance with all requirements of this ordinance and:

1. Provisions of chapter 236, Wisconsin Statutes.

2. Rules of the Department of Industry, Labor and Human Relations, regulating the lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.
 3. Rules of the department of transportation relating to safety of access and the preservation of the public interest and investment in the highway system, if the land owned or controlled by the subdivider abuts a state trunk highway or connecting street.
 4. State department of natural resource rules setting water quality standards, preventing and abating pollution and regulating septic systems.
 5. Duly approved comprehensive plan or comprehensive plan components including zoning ordinances, sanitary codes, Established Street and Highway Width Map of Waukesha County and all other applicable county and town ordinances.
- (Ord. of 6-17-83, § I)

Cross reference - Highway width ordinance, § 24-26 et seq.

2.3. Definitions .

For the purposes of these regulations, the following terms are defined:

Certified survey map: A map of a land split prepared in accordance with section 236.34, Wisconsin Statutes.

County: Waukesha County Park and Planning Commission.

Cul de sac: Minor street closed at one (1) end with a turn-around provided for passenger vehicles.

Development: Includes subdivisions and minor land divisions as defined herein.

Director: Refers to the Director of the Waukesha County Park and Planning Commission.

Environmental corridor: Elongated areas usually located along streams, valleys or other significant topographic features and which may contain lakes, rivers, floodlands, wetlands, woodlands, significant topography, wet soils and significant wildlife habitat areas. Such areas are usually delineated on comprehensive land use or park and open space plans as may be adopted by either the county and/or a local municipality.

Erosion and sediment control plans: A descriptive document approved by the Waukesha County Park and Planning Commission and the Waukesha County Land Conservation Committee, specifying methods controlling soil erosion, surface water runoff and sediment deposition caused by or resulting from land disturbing activities.

Editor's note - See Guidelines for Submittal of Drainage and Erosion Control Plan to the Waukesha County Park and Planning Commission for Review by the Waukesha County Land Conservation Committee and Other Agencies.

Erosion: The detachment and movement of soil, sediment, or rock fragments, by water, wind, ice or gravity.

Minor land division. A division of land which results in one (1) or more parcels of twenty (20) acres each or less in area other than a subdivision as defined herein. A residual parcel resulting from the division of land which contains less than twenty (20) acres of area shall be included in the minor land division.

Owner or subdivider: For the purposes of this ordinance, lots and property shall be

considered in the same ownership when owned by: the same individual corporations; an individual and another in joint tenancy, or as tenants in common, and either of said joint or common tenants owns other lots individually or as a joint tenant or tenant in common, together with another, an individual, and other lots are owned by his spouse, parent, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of the brother or sister of such person; and when any of said lots are owned by an individual and other lots are owned by the corporation in which said individual is an officer or director or controlling stockholder.

Plan commission. The local municipality's planning commission.

Parkway: A continuous or semi-continuous park or drive, usually along a watercourse or park, where the land is owned or reserved for public or semi-public purposes and having access to it.

Replat: The changing of the boundaries of a recorded plat or part thereof.

Subdivision. The division of a parcel or tract of land by the owners thereof for the purpose of transfer of ownership or building development which creates three (3) or more parcels or building sites of 5 acres each or less in area; or where the act of division creates three (3) or more parcels or building sites of five (5) acres each or less in area by successive division within a period of five (5) years.

Supervisor: Refers to the Supervisor of Plat Review of the State of Wisconsin Department of Development.
(Ord. of 5-17-83, §§ II, III)

2.4. Dedication and reservation.

In order that adequate open spaces and sites for public uses may be properly located and preserved

as the county develops; and in order that the cost of providing the public school, park and recreation sites and facilities necessary to serve the additional number of people brought into the community by subdivision development may be most equitably apportioned on the basis of the additional need created by such developments the following provisions are established:

- A. The subdivider shall dedicate an amount of land equal to one (1) acre for every fifteen (15) dwelling units being proposed. This land being dedicated and its location shall be subject to acceptance by the county and the town and shall be in a suitable location to fulfill the need of the community. Lands unsuitable for residential development may be dedicated to fulfill the above obligation only upon acceptance by the town and the county.
- B. Where a subdivision or minor land division contains land indicated in whole or in part as a site for a public park, school, recreation area or other public use on the Waukesha County Park and Open Space Plan, as adopted by the Waukesha County Board on an official plan of the commission or any municipality of the county which has been adopted prior to submission of a preliminary plat for approval, said land shall be dedicated to Waukesha County or the municipality in which the land is located in an amount equal to one (1) acre of land for every 15 dwelling units. However, where such Official Plans call for a larger tract of land than would be set aside if the above standard were applied, the subdivider, in lieu of dedicating the land (in excess of one (1) acre for every fifteen (15) dwelling units) shall reserve said land, for acquisition by Waukesha County, or the municipality in which the land is located,

for a period not to exceed three (3) years.

- C. Where a subdivision or minor land division abuts a public use area such as a park, lake, stream, hunting grounds or any similar type of public recreational area, the subdivider at the option of the county or local municipality, shall provide a pedestrian access easement at least twenty (20) feet wide connecting such public area with a public street.

If it is deemed to be in the public interest by the county to reserve additional area for proper development of the public access thoroughfare, the subdivider shall reserve for acquisition by Waukesha County or the municipality in which the land is located a tract of land adjacent to the thoroughfare which in the judgment of the county will adequately serve the public interest. Such tract shall be reserved for a period of three (3) years from the date of recordation of the plat or certified survey map and if not acquired within that time it shall be released for disposal by the owner.

- D. Where the proposed subdivision or minor land division abuts an existing or proposed state, county or town road, the subdivider shall be required to dedicate any additional lands abutting the road in accordance with the width as required by the county Established Street and Highway Width Map or any other officially approved plan in effect within the area.

Cross reference - Highway widths, § 24-26 et seq.

- E. The dedication of land for public purposes, such as rights-of-way, parks, school sites, easements, becomes effective at the time of approval and recording of the final plat or certified survey map. The acceptance of the constructed roadway for maintenance purposes shall be by a separate resolution adopted by the

municipality in which the plat is located.

- F. On sites reserved for eventual public acquisition no building development is permitted during the period of reservation. The reservation period shall not be longer than three (3) years unless arranged otherwise with the subdivider. Land so reserved must be shown on the final plat or on the certified survey map.

- G. *Fee in lieu of required dedication.*
Where the applications of the area standards of section 2.4(A) would result in an open space of recreation site too small to be usable, or if a comprehensive plan or component thereof calls for such local recreation site to be located elsewhere, or if a suitable local recreation site cannot be properly located in the subdivision as determined by the town or the county, a payment of a fee in lieu of dedication of such land shall be required as follows:

1. The amount of fee must be equal to the fair market value (as determined by a certified appraiser acceptable to both the subdivider and the county or local municipality) of the land that would be set aside if the above standards were applied.
2. The fee must be paid to the township prior to the director affixing his signature to the certified survey map or final plat. Payment of the fee may be made in a lump sum or fifty (50) percent paid at the time of the plat approval, and the balance to be paid within one (1) year, such deferred payment to be guaranteed by a performance bond or other guarantee to the town. All payments made shall be placed in a non-lapsing fund with the township

and to be used exclusively for the acquisition and development of open space for recreation, school sites, and capital improvement school structures.

3. Where the division results in the creation of not more than one (1) additional lot or parcel, payment shall be required only for the newly created parcel. Where a payment has been made on a parcel prior to its division, payment shall be made only for the additional parcel created. No payment is required for a parcel on which a permanent residential structure has existed for at least one (1) year prior to the date of the division.
 4. The town shall present the county with a written receipt or other evidence indicating that such payment or dedication has been made or arranged for prior to the director affixing his signature on the final plat or certified survey map.
- H. Where a subdivision or minor land division contain environmental corridors which are indicated on the Regional Park and Open Space Plan (Planning Report #27) previously adopted by the Southeastern Wisconsin Regional Planning Commission and as adopted on June 6, 1978 by the Waukesha County Board as the Waukesha County Park and Open Space Plan or other officially approved plan adopted by the county or any municipality of the county, or which contain lands within the floodplain, conservancy areas or wetlands as may be identified by the county or town zoning ordinances, the county may request that a preservation easement be placed upon said lands in order to preserve the natural vegetation and wildlife characteristics as well as the natural floodplain.

(Ord. of 5-17-83, §§ IV, V)

2.5. Improvements.

Prior to approval of the final plat, the subdivider shall install street and utility improvements or provide a performance bond to the town in lieu of such improvements.

2.6. Land suitability.

No land shall be subdivided for residential use which is deemed by the county or the town unsuitable for such uses for reason of flooding, inadequate drainage, adverse soil or rock formations, unfavorable topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision of the community. In applying the provisions of this section, the county or the town shall, in writing, recite the particular facts upon which it bases its conclusions that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter, the county or the town may affirm, modify or withdraw its determination of unsuitability.

A. In addition to the above, the following criteria is to be adhered to:

1. All lands to be subdivided shall be at least two (2) feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, five (5) feet above the elevation of the maximum flood on record.
2. No building site shall be created which does not contain lands within each lot boundary meeting the standards established in ILHR-85 of the Wisconsin

Administrative Code and the Waukesha County Health Code. In the case of a planned unit development or other development where a community system of collection and disposal of sewage effluent by soil absorption is contemplated and where the location of the soil absorption for the individual occupant of the lot will be outside of that lot boundary and located within a common open area or other location, said development may be permitted as long as it is approved as a community soil absorption system as regulated by ILHR-85 of the Wisconsin Administrative Code and is approved by various other agencies required to approve such developments.

(Ord. of 5-17-83, § VI)

Cross reference - Community health code, App. E.

SECTION 3.0. PROCEDURE

3.1. Pre-application.

It is recommended that prior to the filing of an application for the approval of a certified survey map or plat, the subdivider consult with the county and the town in order to obtain their advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan or components thereof, and duly adopted plan implementation devices of the county and to otherwise assist the subdivider in planning his development.

(Ord. of 5-17-83, § VII)

3.2. Preliminary plat.

A. Prior to the submittal of a final plat, the subdivider shall file a preliminary plat and a letter of application with the county along with a sufficient number of copies to be forwarded within two (2) days to the following agencies involved

with reviewing the plat:

1. Two (2) copies to the department of development; additional copies to be supplied for retransmission of two (2) copies each to the department of transportation if the plat abuts or adjoins a state trunk highway or a connecting street; the department of industry, labor and human relations if the plat is not to be served with municipal sewers, along with the original copy of the percolation and soil boring results or a certified letter from the clerk stating sewers are available; the department of natural resources if the plat abuts a public body of water, and the necessary state forms.
2. Two (2) copies to any municipality exercising extra-territorial plat jurisdiction pursuant to sections 236.02(2), 236.10(1)(B)2 and 236.10(2), the Wisconsin Statutes.
3. Six (6) copies to the town in which the plat is located, along with two (2) copies of soil percolation and boring results.
4. Six (6) copies to be retained by the county along with one (1) copy of percolation and soil boring results. The county shall then transmit one (1) copy each to the county highway department if the plat abuts or adjoins a county trunk highway and the Waukesha County Land Conservation Committee.
5. One (1) copy to be forwarded by the county to each utility company serving the area. This is to inform the utility company that there is a pending development in the area. It shall also be the responsibility of the developer to forward a copy of the

development plan as agreed to between the developer and the utilities, to the Waukesha County Land Conservation Committee so they may review the construction plans in accordance with the erosion and sediment control plan.

- B. The department of development, the department of labor, industry and human relations and the department of transportation shall be hereinafter referred to as "objecting agencies." All other agencies mentioned except the utility companies, the county highway department, the land conservation committee and the department of natural resources, shall hereinafter be referred to as the "approving agencies."

C. Within twenty (20) days of the date of receiving the copies of the plat, any agency having objecting authority shall notify the subdivider and all approving and other objecting authorities of any objections which it may have, based upon failure of the plat to comply with the Statutes or rules which its examination is authorized to cover; if there are no objections, it shall so certify on a copy of the plat and return that copy to the approving authority from which it was received. If any objections are received by an objection authority, a resubmittal of the preliminary plat shall be required with the required corrections noted. Such resubmittal shall be filed as required by section 3.2(A) of this ordinance. If the objecting agency fails to act within the established twenty day period, it shall be deemed to have no objection to the plat.

D. After all objections have been formally removed by the objecting authorities, the approving agencies may approve the plat upon compliance with all other rules, regulations, or plans which are in effect in the area of the plat. This decision shall be made within ninety (90) days of the date of receiving unless objections are received from any objecting authorities. Failure of the town or the

county to act within the prescribed ninety (90) days shall constitute an approval of the plat.

E. Approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within six months of the preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in section 236.11(1)(b) of the Wisconsin Statutes, the final plat may be entitled to approval with respect to such layout unless conditions in the area of the plat have changed substantially to require an alteration to the plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat which will be subject to further consideration by the town and the county at the time of its submission. (Ord. of 5-17-83, § VIII)

3.3. Final plat.

A. The subdivider shall prepare a final plat and a letter of application in accordance with this ordinance and shall file an adequate number of copies of the plat with the county, which shall within two (2) days formally file the plat as follows:

1. Two (2) copies to the department of development; additional copies to be supplied for retransmission of two (2) copies each to the department of transportation if the plat abuts or adjoins a state trunk highway or connecting street, the department of industry, labor and human relations if the plat is not to be served with municipal sewers, the department of natural resources if it abuts a navigable body of water, and the necessary state forms filled out and submitted along with the copies to be transmitted to the department of development.

- A. As an alternative method of filing the final plat with the state agencies, the developer may file the original copy directly with [director of local and regional planning.
2. If the original copy of the plat is filed with the state as mentioned above, copies of the plat will have to be filed with the county and shall be transmitted to the approving agencies and the utility companies as outlined in section 3.2(A)2 through 5. This must be done as the state does not transmit copies to the approving agencies.
3. *Detailed erosion and sediment control plans.* The Waukesha County Park and Planning Commission, after preliminary review of the development proposal, shall determine if it is necessary to require the subdivider to submit erosion and sediment control plans for review and approval by the Waukesha County Park and Planning Commission and the Waukesha County Land Conservation Committee. Such plans shall generally follow guidelines and standards as set forth in "Guidelines for Submittal of a Drainage and Erosion Control Plans", which has been approved by the Waukesha County Park and Planning Commission and the Waukesha County Land Conservation Committee and Minimizing Erosion in Urbanizing Areas, prepared by the U.S. Soil Conservation Service, as amended. In granting final plat approval, the Waukesha County Park and Planning Commission shall specify any conditions which it deems appropriate, after review by the Waukesha County Land Conservation Committee regarding timing, methods and financial guarantees, for the installation of various items as may be suggested to the erosion and sediment control plan.
 - B. Within twenty (20) days of the date of receiving the copies of the plat, any agency having authority to object shall notify the subdivider and all approving or objecting authorities of any objection it has. If objections are received, it shall be the responsibility of the subdivider to resubmit his plat in accordance with the foregoing procedures. If there are no objections, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. The plat shall not be approved or be deemed approved until any objections have been satisfied. If the objecting agency fails to act within the twenty-day limit, it shall be deemed to have no objection to the plat.
 1. In lieu of the above procedure, the subdivider may submit the original plat to the director of local and regional planning who shall forward two (2) copies each to the agencies authorized to object.

The required number of copies shall be made at the subdivider's expense. Within twenty (20) days of the date of receiving the copies of the plat, any objection agency shall notify the subdivider, and all agencies having the authority to object, of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover. If there are no objections, it shall so certify on the face of a copy of the plat and return that copy to the director of local and regional planning. After each agency and the director have certified that they have no objection or that their objections have been satisfied, the director shall so certify on the face of the plat. If an agency fails to act within twenty (20) days from the date of receipt of the copies of the plat, and the director fails to act within thirty (30)

days of receipt of the original plat, it shall be deemed that there are no objections to the plat and, upon demand, it shall be so certified on the face of the plat by the director.

C. The county and the town shall within sixty (60) days of the date of filing of the final plat approve or reject such plat unless the time is extended by agreement with the subdivider or unless objections have been filed which would require a formal resubmittal of the plat after the corrections have been made. The town and the county shall examine the final plat as to its conformance with the approved preliminary plat; this ordinance and all ordinances, rules, regulations, or other plans which may affect the plat. Erosion and sediment control plans reviewed and approved by the Waukesha County Land Conservation Committee and the Waukesha County Park and Planning Commission. The final plat may constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time. The final plat may be rejected if it is not submitted within six (6) months of the date of the last required approval of the preliminary plat. No approval by any approving agency can be granted until all formal objections have been satisfied. Failure of any approving agency to act within 60 days, the time not having been extended and no objections having been filed, shall constitute an approval. The necessary certificates shall also be placed upon the original drawing of the final plat and must be signed by all appropriate review agencies prior to recording.

D. The final plat shall be recorded in the office of the Register of Deeds of Waukesha County in accordance with section 236.25 of the Wisconsin Statutes.
(Ord. of 5-17-83, §§ IX-XI)

3.4. Replat.

When it is proposed to replat a recorded

subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, the Wisconsin Statutes and the provisions of this ordinance shall apply.

3.5. Minor land division.

Any division of land other than a subdivision as defined herein shall be surveyed and a certified survey map prepared and recorded as provided in section 236.34 of the Wisconsin Statutes.

(Ord. of 5-17-83, § XII)

A. Prior to the preparation of the map, it is recommended to first submit the proposed division to the county and the town for informal preliminary discussion and approval in accord with this ordinance. It shall be reviewed to establish conformity with surrounding, existing or proposed developments; adjacent or future streets; schools; environmental corridors, parkways, or other planned public development; analysis of soil types; topography; drainage; access to any abutting street or highway; conformance with the established Street and Highway Width Map of Waukesha County; and generally for the effect the land sale would have on the development of surrounding property. If any lots to be divided are not served by municipal sanitary sewer, percolation and soil boring tests shall be submitted for approval in accordance with Waukesha County Community Health Code and the rules of the department of industry, labor and human relations, applicable to subdivisions. (ILHR-85 Wisconsin Administrative Code).

Cross reference - Highway widths, §24-26 et seq.

B. After preliminary approval has been granted by the town and the county as to the general land divisions, the subdivider may proceed to have drawn a certified survey map in accordance with section 236.34 of the Wisconsin Statutes. The subdivider shall be

required to dedicate any street which the town deems necessary and shall be required to build the street to town road standards and in conformance with this ordinance. All other dedications, payments, and reservations established by section 2.4 of this ordinance shall be required of the subdivider.

C. Four (4) copies of the final certified survey map shall be submitted to the town of which two (2) copies shall be forwarded within two (2) days of the date of receiving, to the county for their review. The town plan commission shall refer the certified survey map with its recommendations to the town board within thirty (30) days of its submission unless the time is extended. The town board shall approve or reject the certified survey map within sixty (60) days of its submission to the plan commission unless the same is extended by agreement with the subdivider. If the certified survey map is approved, a resolution to that effect shall be adopted by the town board and certified by the town clerk on the original of the certified survey map.

D. Subsequent to the town's approval, the county shall approve or reject the map within ninety (90) days of its being received unless same is extended by agreement with the subdivider. Approval may not be granted unless the map has been approved by the town. The county's approval shall be based upon the requirements of the ordinance and any other officially adopted plans or ordinances in effect within the area of land division. If the map is approved, a resolution to that effect shall be adopted by the county and certified to that effect on the original of the certified survey map.

E. The original of the certified survey map shall be filed with the county and shall conform to the requirements of section 236.34, Wisconsin Statutes, and shall contain the resolutions as adopted by the town and the county along with any other certificates as may be required by statute. The recording fee, as established by the state

legislature, shall also be filed along with the map in the form of a certified check or money order made out to the county register of deeds. It shall then be the duty of the county to record the map and the fee with the register of deeds after all of the certificates pertaining to the document have been signed.

SECTION 4.0. PRELIMINARY PLAT

4.1. Plat data.

A preliminary plat shall be required for all subdivisions (as defined herein) and shall be based upon a survey by a registered land surveyor or engineer and the plat prepared on tracing cloth or paper of good quality at a scale of not less than two hundred (200) feet to the inch and shall show correctly on its face the following information:

1. Title under which the proposed subdivision is to be recorded.
2. Location of proposed subdivision by: government lot, quarter section, township, range, county and state.
3. Date, scale, north arrow.
4. Names and addresses of the owner, subdivider and land surveyor preparing the plat.
5. Land contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development.
6. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U. S. Public Land Survey and the total

acreage encompassed thereby.

7. Contours at vertical intervals of not more than two (2) feet. Where ground slopes exceed ten (10) percent, five-foot vertical will be sufficient. Where possible elevations should be based on mean sea level datum.
 8. High-water elevation of all ponds, streams, lakes, flowages, and wetlands based upon mean sea level datum. Floodland and shoreland boundaries shall be delineated and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred-year recurrence internal flood or, where such data is not available, five (5) feet above the maximum flood on record or a known high water elevation.
 9. Location and names of any adjacent developments and/or property along with the location, established and existing width of all roads and names of all existing streets, alleys, or other public ways, easements, rail road and utility rights-of-way and easements, and all section and quarter section lines in the immediate area of the plat. The type, width, and elevation of existing street pavements within or adjacent to the proposed development together with any legally established centerline elevations referred to mean sea level datum.
 10. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, electric power and telephone poles or underground installations, location and size of any existing water and gas mains within the area of the plat or adjacent thereto. If no sewers, water mains or other utility facilities are located on or immediately adjacent to the tract, the nearest such facilities which might be extended to serve the tract shall be indicated by their direction and distance from the tract, their size, and their invert elevation.
 11. Location of all existing property boundary lines, structures, drives, streams or water courses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto.
 12. The scaled dimensions of all lots, proposed open space dedication, drainage ways, or other public use areas such as shopping centers, church sites, group housings, or other non-public uses that do not require lotting.
 13. Existing zoning on and adjacent to the proposed subdivision along with corporate limit lines.
 14. Proposed lake and stream access in the subdivision along with any improvement or relocation of the lake or stream.
 15. Soil types, slopes and boundaries as shown on the soil survey maps prepared by the Soil Conservation Service, U. S. Department of Agriculture.
 16. Any additional information required by the county or the town.
- 4.2. Street plans and profiles.**
- It shall be required that the subdivider prepare and submit street plans and profiles to the town engineer for his recommendation and/or approval prior to submittal of the final plat. These plans and profiles shall show existing ground surface, proposed and established street

grades, and profiles, including extensions for a reasonable distance beyond the boundary of the proposed subdivision.

4.3. [Borings and soundings.]

The county may require that borings and soundings be made in specified areas to ascertain sub-surface soil, rock and water conditions, including depth to ground water or bedrock. These provisions may be in addition to the requirements of H-65 of the Wisconsin Administrative Codes and shall be submitted for review with the preliminary plat.

4.4. [Protective covenants.]

Protective covenants may be required whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development.

4.5. Certification.

The surveyor or engineer preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land division and features and that he has fully complied with the provisions of this ordinance.

SECTION 5.0. FINAL PLAT

5.1. General.

A final plat prepared by a registered land surveyor or engineer shall be required for all subdivisions. It shall comply in all respects with the requirements of section 236.20 of the Wisconsin Statutes.

5.2. Additional information.

The final plat shall show correctly on its face, in addition to the information required by section 236.20 of the Wisconsin Statutes, the following:

1. All land reserved for future public acquisition or reserved for the common use of property owners within the plat shall be adequately identified.
2. Special restrictions as may be required by the town or the county planning commission.
3. Location of the soil absorption field if it is found that portions of the proposed lots would be unsuitable for a septic system.
4. Floodland and shoreland boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, a vertical distance of five (5) feet above the elevation of the maximum flood of record.
5. Any additional information required by the town or the county.

5.3. [Survey accuracy and monuments.]

Survey accuracy and monumenting shall comply with section 236.15 of the Wisconsin Statutes. Certification shall be included as required by section 236.21 of the Wisconsin Statutes; and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this ordinance.

5.4. Certificates.

All final plats shall provide all the certificates required by section 236.25(2)(c) and (d) of the Wisconsin Statutes; and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this ordinance.

SECTION 6.0. CERTIFIED SURVEY

MAP

6.1. [Required.]

A certified survey map prepared by a registered surveyor or engineer shall be required for all minor subdivisions. It shall comply in all respects with the requirements of section 236.34 of the Wisconsin Statutes and section 3.5 of this ordinance. Any improvements necessary for proper use of the subject parcels shall be required as specified by this ordinance.

6.2. Additional information.

The map shall show correctly on its face, in addition to the information required by section 236.34 of the Wisconsin Statutes, the following:

1. All existing buildings, watercourses, drainage ditches, and other features pertinent to proper division.
2. Setbacks or building lines as required by the ordinance in effect in the area.
3. All lands being dedicated and/or reserved for future acquisition.
4. Date, scale, names and address of survey or, owner and subdivider.
5. Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.
6. Floodland and Shoreland boundaries and the contour line at a vertical distance of two (2) feet above the elevation of the one hundred-year recurrence interval flood or where such data is not available, at a vertical distance of five (5) feet above the elevation of the maximum flood of record.
7. Any additional information as may be

required by the county or the town.

6.3. Certificates.

The surveyor shall certify on the face of the map that he has fully complied with all the provisions of this ordinance. The town and the county shall also certify their approval on the face of the map. Dedication of streets and other public areas shall require the owner's certificate and the mortgagee's certificate in substantially the same form as required by section 236.21(2)(a) of the Wisconsin Statutes.

6.4. Recordation.

The certified survey map shall be recorded with the county register of deeds after the certificates are placed on the face of the map.

SECTION 7.0. GENERAL REQUIREMENTS AND DESIGN STANDARDS

7.1. General.

The proposed subdivision shall conform to the provisions of chapter 236 of the Wisconsin Statutes; all applicable ordinances of the town; and design and construction standards as established by this ordinance and/or the town's standards.

7.2. Street design.

A. General consideration.

1. *Arrangement.* In any new subdivision, the street layout shall conform to the arrangement, width and location indicated on the official map, comprehensive plan, the established Street and Highway Width Map of Waukesha County or the component neighborhood development plan of the

governmental unit. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivisions shall be designed so as to provide each lot with satisfactory access to a public street.

2. *Construction standards.* All streets to be constructed shall conform to the construction standards as required by the local town road standards.

B. *Street classification.*

1. *Arterial streets.* Provide for efficient, safe and direct connection to, or separation of, neighborhoods; for circulation to destination outside the residential area.
 - a. Where a subdivision or minor land division abuts or contains an existing on proposed major highway of primary classification of the Waukesha County established street and highway width map, the commission may require a frontage road or a non-access reservation along the property contiguous to such highway, or other treatment as may be necessary for adequate protection of residential properties and to separate minor and arterial traffic.
 - b. Where the proposed subdivision or minor land division abuts the arterial street, the width as required on the established street and highway width map shall be dedicated. If the division abuts only one (1) side of the

arterial, one-half of the width as required shall be dedicated. Where the division abuts both sides of the arterial, the entire width as required shall be dedicated.

Cross reference - Highway widths, § 24-26 et seq.

2. *Collector streets.* Provide for circulation to serve local traffic moving between minor streets and arterial streets.
3. *Minor streets.* Provide access and service to abutting properties.
4. *Cul de sac.* Culs de sac, designed as permanent installations and not to be extended at any time, shall normally not be longer than six hundred (600) feet, except where topographical and particular conditions warrant an extension and will be subject to approval of the commission and the town. The closed end shall have a paved turning diameter of at least ninety (90) feet and a right-of-way diameter of one hundred twenty (120) feet.
5. *Alley.* Alleys shall be provided in commercial and industrial districts except that the commission may waive this requirement where other provisions are made for service access such as off-street loading and parking adequate for the uses proposed. Alleys shall be prohibited in residential areas unless necessary because of exceptional circumstances. Dead end alleys shall be avoided. Alleys shall have a minimum width of thirty (30) feet.
6. *Half-streets.* Half-streets are streets which are only a portion of the required width and are usually platted along property lines. These half-streets shall

be prohibited except where it is deemed essential for the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract.

- C. *Width.* The right-of-way of all streets shall be no less than sixty (60) feet for minor streets on which the Annual Average twenty-four-hour traffic (ADT) count is less than one hundred (100). (ADT is figured on the basis of one (1) residential lot generating seven and one-half (7 1/2) trips/day). Where the ADT count is greater than one hundred (100) the right-of-way shall be at least sixty-six (66) feet in width. All arterials and major streets shall comply with the requirements of the established Street and Highway Width Map of Waukesha County.

Cross reference - Highway widths, § 24-26 et seq.

- D. *Grades.* The grades of collector streets shall not exceed eight (8) percent while minor streets shall not exceed twelve (12) percent, unless necessitated by exceptional topography and approved by the town.
- E. *Sight distance.* Proper sight distances must be provided with respect to both horizontal and vertical alignment. Measured along the centerline, five (5) feet above grade, this sight distance must be five hundred (500) feet for arterials, three hundred (300) feet for collectors, and one hundred (100) feet for minor streets.
- F. *Curves.* The minimum radii or curvature on the centerline shall be three hundred (300) feet for collectors and one hundred (100) feet for minor streets. A tangent

shall be introduced between reverse curves and shall be at least one hundred (100) feet long on collector streets.

- G. *Street names.* Street names shall be required for all proposed public streets and shall not duplicate or be confused with the name of an existing street within the municipality. Streets that are extensions, or that are proposed to be aligned with existing named streets, must bear the names of these streets. Street signs shall be required at all intersections. Their location and design shall be determined and approved by the town.

7.3. Intersection design.

A. Street shall intersect at right angles and not more than two (2) streets shall intersect at one point.

B. Intersections must be approached on all sides by grades not to exceed four (4) percent for a distance of at least fifty (50) feet in length unless exceptional topography would prohibit these grades.

C. The minimum turning radius at an intersection shall not be less than forty (40) feet.

D. Vision triangles providing unobstructed views in both directions perpendicular to the line of sight shall be maintained at all intersections. Measured along the centerline, there shall be a clear sight triangle easement with sides as follows: State and federal highways, two hundred fifty (250) feet; arterials, one hundred fifty (150) feet; collectors, one hundred (100) feet. No building or obstruction to view is permitted in this triangular area.

E. If a proposed street is to enter a town, county or state arterial and it is deemed a

hazardous entrance by the governing body having jurisdiction over the road, it will be the responsibility of the subdivider to correct the potential hazard through an agreement with the governing body or else relocate the proposed entrance to a more suitable location.

F. The following distances between intersections must be observed:

1. Minor and collector streets may not empty into state and federal highways at intervals less than one thousand three hundred (1,300) feet and into arterials less than one thousand (1,000) feet. They shall be in alignment with existing and planned streets entering the above highways from the opposite side.
2. If the intersections on minor and collector streets are not in alignment, the distance between streets opening up on opposite sides of any existing or proposed streets must be at least one hundred fifty (150) feet measured along the intersecting centerline. Where the streets enter on the same side, the intersection distance measured from the centerline shall be at least three hundred (300) feet.

7.4. Construction standards .

A. All streets and roads shall be constructed in conformance with those standards adopted by the town. Where there are no town road standards, the minimum standards of the Wisconsin State Division of Highways shall apply. Local restrictions may also require the installation and improvement of curbs, sidewalks, gutters, storm drainage, sewers, etc. These improvements shall be constructed in accordance with the local requirements.

7.5. Blocks and lots.

A. The lengths, widths, and shapes of blocks shall be determined by; provisions for building sites suitable to meet the needs of the type of use contemplated; zoning ordinance requirements pertaining to lot size and dimensions; needs for convenient access; circulation, control and safety of street traffic; limitation and opportunities of topography. Block lengths shall normally not exceed two thousand (2000) feet, or be less than six hundred (600) feet in length.

B. The dimensions of the lots must conform to any applicable zoning ordinance. Corner lots shall be twenty (20) percent wider than the minimum width as required for lots less than one hundred fifty (150) feet in width. Where the required minimum average width of lots is one hundred fifty (150) feet or greater, corner lots shall not be required to be increased in width.

C. All lots must abut a public street for at least thirty (30) feet, however, under special conditions a private road may be utilized in accordance with the applicable zoning ordinance.

D. Lot lines shall be at right angles or radial to the street lines. Double frontage shall be avoided except where essential to provide separation of the development from traffic arteries or to overcome particular topographic and orientation disadvantages. Where residential lots abut a railroad right-of-way, arterial highway, commercial, or industrial district, additional depth shall be provided for the lot in an amount equal to at least twenty (20) percent of the minimum depth which would normally be required. All lots shall be designed with a suitable proportion between width and depth. Neither long narrow or wide shallow lots are normally desirable. Depth of lots shall not be less than one hundred fifty (150) feet.

7.6. Easements.

A. Pedestrian easements or dedications, at least twenty (20) feet in width shall be required where deemed necessary to provide access to playgrounds, parks, schools, shopping centers, or other community facilities.

B. Utility easements shall be provided as may be deemed necessary by those utility companies having installations in the plat. The utility companies shall review all plats to determine whether easements will be necessary and where they should be required.

C. Where a subdivision is traversed by a drainageway or stream, an adequate easement shall be provided as deemed necessary by the town engineer. The location, width, alignment, and improvement of such drainageway or easement shall be subject to approval by the town engineer or the county; and parallel streets or parkways may be required in connection therewith. Where necessary, storm water drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow, subject to review and approval by the town engineer. Where deemed necessary, the town or the county may require these channels to be enclosed with pipe.

SECTION 8.0. REQUIRED IMPROVEMENTS

8.1. Survey monuments.

The subdivider shall install survey monuments in accordance with the requirements of section 236.15, Wisconsin Statutes.

8.2. Required installation.

Prior to final approval by the local municipality, the subdivider will provide and dedicate the following facilities and improvements all of which facilities and improvements must be installed or

provided for within the time required by the town board:

A. Streets graded and surfaced according to the standards of the local municipality along with the street right-of-way as established by this ordinance. Where no standards have been adopted, the minimum standards required by the Wisconsin Division of Highways shall apply.

B. Drainage ditches, culverts, and such other facilities necessary to provide adequately for surface water drainage according to the established standards of the Waukesha County Land Conservation Committee, local municipality and as may be set forth in the erosion and sediment control plans. All open ditches shall be established immediately with vegetative cover after their construction and any other methods of preventing erosion which may be deemed necessary at the direction of the town or the county and as may be set forth in the erosion and sediment control plans. Where culverts are required by local standards, corrugated metal or reinforced concrete culverts shall be installed prior to the acceptance of the street.

C. Facilities for distribution of electric, telephone, and gas utility service located within a subdivision shall be installed underground except where the town board, upon recommendation of the town plan commission and the county, find that adverse soil conditions or problems of utility distribution make such installation prohibitively expensive or impractical. Transformer junction boxes, meter points, or similar equipment may be installed upon the ground surface. Any landscape screening required by the local municipality for screening of

above ground equipment shall be installed within six (6) months of the installation of said equipment.

- D. Street signs shall be erected by the subdivider or the municipality, at the expense of the subdivider, at all intersections and shall be acceptable to the local municipality.
- E. All open cuts of ground shall be seeded or re-turfed in a manner as to prevent excessive water runoff or erosion and sedimentation on adjoining lands. As soon as grading and cutting is complete, the developer shall plant grass, rye, or sod in order to reduce excessive erosion and runoff.
- F. In the event the aforesaid facilities and improvements have not been fully installed at the time the plat is submitted to the local municipality for final approval, the subdivider shall file with the local clerk a letter of credit, bond or money in escrow to guarantee completion of said facilities in an amount deemed adequate by the town and said financial agreement acceptable to the county, town attorney and town engineer. This financial guarantee shall cover installation of all street improvements and necessary erosion and sediment control practices. Said agreement shall have the Waukesha County Park and Planning Commission as a joint releasing agent along with the local municipality.
- G. All other improvements to be installed shall be at the direction of the town or in accordance with local ordinances.
- H. The adequacy of such facilities and improvements and their proper installation shall be subject to approval of the town and the town engineer prior to approval of the final plat. Such approval or

recommendation for approval by the town engineer shall be submitted to the county prior to final approval by the county.

Construction or installation of improvements shall not commence until the preliminary plat and the construction plans have been approved by all agencies having authority to review the plat. All work or improvements to the subdivision shall also be subject to inspection by the town engineer to determine conformance with any applicable requirements.

(Ord. of 5-17-83, XIII)

8.3. [Compliance as prerequisite to building or occupancy permits.]

No building or occupancy permits shall be issued for erection of a structure on any lot not of record until all the requirements of this or any other ordinance have been met.

SECTION 19.0. VARIANCE AND APPEAL

Where the park and planning commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of these regulations and any development plans of any municipal agency.

In granting variances and modifications, the park and planning commission may require such conditions which will in its judgment, secure the objectives of this ordinance.

9.1. Planned development.

The standards and requirements of these regulations may be modified by the commission in the case of a plan and program for a new town, a complete community, or a neighborhood unit, which in the judgment of the commission provides adequate public spaces and improvements for circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also assures conformity with the zoning regulations of the municipality in which the development occurs.

9.2. Amendments.

The Waukesha County Board of Supervisors may upon recommendation of the county park and planning commission amend, supplement or repeal any of these regulations after public notice and hearing.

[SECTION] 10.0. VIOLATIONS AND PENALTIES

10.1. Violations.

It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this ordinance or the Wisconsin Statutes, and no person, firm or corporation shall be issued a zoning or building permit authorizing the building upon, or improvement of, any subdivision, minor subdivision or replat within the jurisdiction of this ordinance not of record as of the effective date of the ordinance until the provisions and requirements of this ordinance are fully met.

Any person, firm or corporation who fails to comply with the provisions of these regulations shall, upon conviction thereof, forfeit not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00) and the cost of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days. Each day a

violation exists or continues shall constitute a separate offense. Compliance therewith may also be enforced by injunctive order at the suit of the county or the owner or owners of real estate within the district affected by the regulations of this ordinance, as provided by law.

[SECTION 11.0. SEVERABILITY]

11.1. Severability.

The provisions of this ordinance are severable, and if for any reason, a clause, a sentence, a paragraph, a section or other part of this ordinance should be decided by a court of competent jurisdiction to be invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions.

Adopted twenty-third day of June, 1970.

Published sixteenth day of July, 1970.

SECTION 1.00. INTRODUCTION

1.01. Authority.

These regulations are adopted under the authority granted by sections 59.07(51) and 92.16 of the Wisconsin Statutes. Therefore, the Waukesha County Board of Supervisors to ordain as follows:

1.02. Findings and declaration of policy.

The Waukesha County Board of Supervisors finds:

- A. That storage of animal waste in storage facilities not meeting adequate technical standards may cause pollution of the surface and ground waters of Waukesha County, and may result in

actual or potential harm to the health of county residents and transients; to livestock, aquatic life, and other animals and plants; and to the property tax base of Waukesha County;

- B. That improper management of animal waste facilities, and utilization, including land application, of stored animal waste, may cause pollution of the surface and ground waters of Waukesha County;
- C. That the technical standards developed by the U.S. Department of Agriculture, Soil Conservation Service, and adopted by the Waukesha County Land Conservation Committee provide effective, practical, and environmentally safe methods of storing and utilizing animal wastes; and
- D. That adoption of a Waukesha County Animal Waste Management Ordinance will serve to implement the recommendations set forth in Southeastern Wisconsin Regional Planning Commission Community Assistance Planning Report No. 156, Waukesha County Animal Waste Management Plan, published in August 1987, and which is hereinafter adopted by reference upon adoption and passage of this ordinance.

1.03. Purpose.

The purpose of this ordinance is to regulate the location, design, construction, installation, alteration, and use of animal waste storage facilities, and the application of waste from these facilities in order to prevent surface and ground water pollution and thereby protect the health of Waukesha County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Waukesha County. It is also the intent of the ordinance to provide for the

administration and enforcement of the ordinance and to provide penalties for its violation.

1.04. Applicability.

This ordinance applies to all the land within the geographic limits of Waukesha County, Wisconsin.

1.05. Interpretation.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Waukesha County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.06. Severability.

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be effected thereby.

1.07. Title.

This ordinance shall be known as, referred to, and may be cited as the Waukesha County Animal Waste Management Ordinance and is hereinafter referred to as the "ordinance."

1.08. Effective date.

This ordinance shall be effective after a public hearing, adoption by the Waukesha County Board of Supervisors, and publication or posting as provided by law and not earlier than January 1, 1988.

SECTION 2.00. ACTIVITIES SUBJECT TO REGULATION

2.01. General Requirement.

Any person who constructs, installs, reconstructs, enlarges, or substantially alters an animal waste storage facility, or who employs another person to do the same, on land subject to this ordinance, shall be subject to the provisions of this ordinance, including the animals waste management and Supp. No. 4 utilization provisions of this ordinance. The waste management and utilization provisions of this ordinance are applicable only to persons who build storage facilities approved under this ordinance.

2.02. Compliance with permit requirement.

A person is in compliance with this ordinance if he or she follows the procedures of this ordinance, applies for and receives a permit from the zoning administrator before beginning activities subject to regulation under this section, and complies with the requirements for the permit.

SECTION 3.00. APPLICATION FOR AND ISSUANCE OF PERMITS

3.01. Permit required.

No person may undertake an activity subject to the ordinance without obtaining a permit from the zoning administrator prior to commencement of construction of the proposed activity.

3.02. Permit fee.

Any person, firm, or corporation performing work, which by this ordinance requires the issuance of a permit, shall pay a fee for such permit to help defray the cost of administration, inspection, and processing of permits. The amount of the fee shall be established on an annual basis by the committee and the commission.

3.03. Exception to fee requirement.

Maintenance, as defined herein, to existing animal waste storage facilities may be performed

upon notification to the committee staff that said maintenance is being done. The staff shall make a determination within thirty (30) days as to whether the modification is considered maintenance or repair. If the staff determines the modifications are maintenance in nature, no permit will be required.

If it is determined that the alteration or modification represents a repair which will significantly alter the original design and construction of the facility, a registered professional engineer or a person having SCS engineering job approval shall submit to the committee staff, the necessary information as outline in section 3.07 of this ordinance or any other pertinent data as required by the committee staff so that a new permit can be issued.

3.04. Animal waste storage facility plan required.

Each application for a permit for a new animal waste storage facility or repair shall include an animal waste storage facility plan. The plan shall specify and include the following:

- A. The number and kinds of animals for which the proposed new or altered waste storage is to be provided.
- B. A site plan, at a scale of not less than one (1) inch equals one hundred (100) feet, of the facility and its location in relation to agricultural and other nonagricultural buildings within two hundred fifty (250) feet and residential dwellings within five hundred (500) feet of the proposed facility. The plan shall also include land uses on adjacent parcels.
- C. The structural details of the proposed new or altered facility, including dimensions and cross-section prepared

by a registered professional engineer or person with SCS engineering job approval.

- D. The location of any wells within three hundred (300) feet of the proposed new or altered facility.
- E. The soil test pit locations and soil descriptions to a depth below the planned bottom of the proposed new or altered facility in accordance with standard 425 of the Technical Guide F. The elevation of groundwater and bedrock if encountered in the soil profile, and the date of such determination in accordance with standard 425 of the *Technical Guide*.
- F. The elevation of groundwater and bedrock if encountered in the soil profile, and the date of such determination in accordance with standard 425 of the *Technical Guide*.
- G. Provisions for adequate drainage and control of runoff to prevent pollution of surface and groundwater during and after the construction process. If a navigable body of water lies within five hundred (500) feet of the proposed new or altered facility, the location and distance to the navigable body of water shall be shown.
- H. The scale of the site plan and a north arrow.
- I. The name, address, and telephone number of the contractor who will be constructing or altering the facility.
- J. A time schedule for construction of the proposed new or altered facility.
- K. A detailed plan of the method for transferring animal waste into and out of the proposed new or altered facility.
- L. Plans for the utilization of the animal

waste, including the amount of land available for the application of waste, identification of areas where the waste will be used, soil types, and any limitations on waste application due to soil limitations, type and proximity of bedrock or groundwater, slope of land, and proximity to surface water bodies, all in accordance with standard 633 of the Technical Guide.

- M. The petitioner shall also submit the name, address, and telephone number of the owner of record of the property and, if there are outstanding mortgages or liens on the property, the holder of the lien and the amount of the lien. Any rental agreements to parties other than the owner/operator of the facility should be identified.

3.05. Review of application.

The committee staff who have SCS engineering job approval, shall review all permit applications for completeness and certify whether the application is in compliance with the specific standards of this ordinance. In the absence of such staff with SCS engineering job approval, the zoning administrator shall be authorized to seek the advice of a registered professional engineer qualified to review the application to determine conformance with the provisions of this ordinance and the zoning administrator shall be authorized to charge back any and all fees to the applicant charged by the registered professional engineer. The zoning administrator shall advise the applicant of this procedure prior to contracting with the consultant engineer to advise him of the anticipated costs and to gain approval from the applicant to proceed. In the absence of such approval, the application and fee shall be returned to the applicant and no permit shall be issued. Upon certification of the

application by either committee staff with SCS engineering job approval or by the consultant engineer referenced above, the zoning administrator shall then receive the permit application and fee and prepare a deed restriction for recording which will specify all details of the facility plan, the construction completion dates, and the operational guidelines for the facility. The applicant shall then secure the signatures of all parties holding interest in the property and said deed restriction shall be recorded in the office of the Waukesha County Register of Deeds. The permit application shall also provide a written statement from the local municipality as to whether any local permits will be required by that local municipality or any other jurisdiction as may be required by the county, state or federal government pursuant to other applicable laws. Upon verification that the afore said restrictions have been recorded with the Waukesha County Register of Deeds and conformance has been obtained with all other requirements contained herein and with any other governmental agency permits required by law, the zoning administrator shall issue the permit.

3.06. Permit conditions.

All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

- A. Animal waste storage facility design, construction, management, and utilization activities shall be carried out in accordance with the animal waste facility plan and applicable standards specified in section 4.00 of this ordinance.
- B. The permittee shall give ten (10) working days' notice to the committee staff or zoning administrator before starting any construction activity authorized by the permit.
- C. Any modification to the approved animal waste facility plan shall be approved, within a maximum of thirty (30) days in writing, by the committee staff or zoning administrator and a copy of said modification shall be forwarded to the zoning administrator.
- D. A registered professional engineer or person with SCS engineering job approval, shall certify in writing that the facility was installed as planned.
- E. Activities authorized by permit shall be completed within one (1) year from the date of issuance. The zoning administrator may extend the permit for six (6) additional months upon showing of cause why the project cannot be completed within the allotted time.

3.07. Permit revocation.

Upon reasonable cause or question as to proper compliance, the zoning administrator may revoke any permit and issue cease and desist orders requiring the cessation of any construction activities or if it is determined that the holder of a permit has misrepresented any material fact in the permit application or animal waste facility plan, or if the holder of the permit violates any of the conditions of the permit. The zoning administrator can reinstate the permit upon showing that compliance has been achieved.

SECTION 4.00. STANDARDS

4.01. Standards for animal waste storage facilities.

The technical standards for the design and construction of animal waste storage facilities shall be those set forth in standards 312 (Waste Management System), 313 (Waste Storage

Structure), 425 (Waste Storage Pond), and 633 (Waste Utilization) of the *Technical Guide* and are adopted by reference by the committee, and as may be amended from time to time.

4.02. Standard for animal waste management and utilization.

The technical standards for management of animal waste facilities and utilization of animal waste shall be those set forth in standard 633 of the *Technical Guide* and area adopted by reference by the committee, and as may be amended from time to time.

SECTION 5.00. ADMINISTRATION

5.01. Delegation of authority.

Waukesha County hereby designates the Waukesha County Zoning Administrator to administer and enforce this ordinance. The committee may, in turn, delegate the necessary functions to such staff as it deems desirable and who have SCS engineering job approval in the review of applications.

5.02. Administrative duties.

In the administration and enforcement of this ordinance, the zoning administrator and committee staff shall:

- A. Issue no more than five (5) permits in any calendar year. In the case of an NR 243 complaint which specifies that an animal storage facility is the only resolution of a pollution problem, a permit may be issued in addition to the limitations of five (5) [permits] set forth above.
- B. The zoning administrator shall keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official

actions.

- C. The zoning administrator and the committee staff shall review permit applications and issue permits in accordance with section 3.00 of this ordinance.
- D. The committee staff shall inspect animal waste facility construction to ensure the facility is being constructed according to the approved plan specifications and file inspection reports with the zoning administrator.
- E. Upon certification of the facility by a certified engineer or someone having SCS engineering job approval, a use permit will be issued by the commission staff.
- F. The committee staff shall, upon request by the zoning administrator, investigate complaints related to compliance with the ordinance.
- G. The zoning administrator and committee staff shall perform other duties as may be specified in this ordinance. Also, section 5.02(A) of this ordinance may be amended without the necessity of a public hearing when mutually agreed upon by the commission and the committee.

5.03. Inspection authority.

The zoning administrator and committee staff are authorized to enter upon any lands affected by this ordinance to inspect the land prior to or after permit issuance to determine compliance with this ordinance. If permission to inspect the facility or property is refused, entry by the zoning administrator or committee staff shall be made in accordance with sections 66.122 and

66.123 of the Wisconsin Statutes.

5.04. Enforcement authority.

The zoning administrator is authorized to issue stop work orders upon land which has had a permit revoked or upon land currently undergoing activity in violation of this ordinance upon report of the committee staff that such work is being conducted in violation of this ordinance. Notice shall be given by certified letter to the land owner where the violation occurs. The certified letter shall specify that the activity must cease and be brought into compliance within seven (7) calendar days unless a modification of the facility is necessary. Any permit revocation or ceasing of work shall remain in effect unless retracted by the zoning administrator upon recommendation by the committee staff, or by a court of competent jurisdiction; or until the activity is brought into compliance with the ordinance. Any continued violation of this ordinance of failure to cease construction in violation of this ordinance may be subject to legal proceedings upon authorization by the commission and reference to the Waukesha County Corporation Counsel.

SECTION 6.00. VIOLATIONS

6.01. Penalties.

Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this ordinance, or deed restrictions, shall be subject to a forfeiture of not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00), plus the costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to a permit. Each day a violation exists or continues to exist shall constitute

a separate violation.

6.02. Enforcement by injunction.

As a substitute for or in addition to forfeiture actions, the commission may seek enforcement of any part of this ordinance by court action through injunctive relief or issuance of restraining orders by a court.

SECTION 7.00. APPEALS

7.01. Authority.

Pursuant to the authority granted by chapter 68 of the Wisconsin Statutes, the Waukesha County Board of Adjustment, created under section 59.99 of the Wisconsin Statutes, and acting as an appeal authority under section 68.09(2) of the Wisconsin Statutes, is authorized to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination by the zoning administrator, committee staff, commission or committee in administering this ordinance.

7.02. Procedure.

The rules, procedure, duties, and powers of the Waukesha County Board of Adjustment as outlined in Section 17 of the Waukesha County Shoreland and Floodland Protection Ordinance shall apply to this ordinance.

Cross reference - Shoreland and floodland protection, board of adjustment, App. B, § 17.01 et seq.

7.03. Who may appeal.

Appeals may be taken by any person or municipality having a substantial interest which is adversely affected by the order, requirement, decision, or determination made by the committee staff, zoning administrator or the committee or the commission.

SECTION 8.00. CHANGES AND AMENDMENTS

8.01. Procedure for amendment.

The Waukesha County Board of Supervisors may, from time to time, amend, alter, supplement, or change the regulations or procedures set forth in this ordinance in the manner provided by law. A joint public hearing on any change or amendment shall be held before the committee and commission designees who shall formulate a recommendation to be presented to the committee and the commission. Upon receipt of the staff's recommendation, the committee and the commission shall take action to either recommend approval or rejection of the amendments being sought and prepare an ordinance indicating their appropriate action which shall then be forwarded to the Waukesha County Board of Supervisors for approval. The county board of supervisors shall either approve or reject the ordinance in accordance with county board rules of order. The public hearing referenced above shall be noticed in the Waukesha County designated official newspaper as a class 2 notice in accordance with Chapter 985 of the Wisconsin Statutes. Changes or amendments adopted by the county board of supervisors shall be effective upon proof of publication pursuant to [section] 59.09 of the Wisconsin Statutes.

SECTION 9.00. DEFINITIONS

9.01. Specific words and phrases.

Animal waste. Livestock secretion and other materials such as bedding, soil, hair, feathers, and other debris and as may be augmented or other water and which is normally included in animal waste handling operations.

Animal waste storage facility. A concrete, steel, or otherwise fabricated structure, or an excavated or earthen impoundment used for

storage of animal waste or other organic waste.

Applicant. Any person who applies for a permit under this ordinance.

Calendar day. Every day shown on the calendar, including Sundays and holidays.

Commission. For purposes of this ordinance, commission refers to the Waukesha County Park and Planning Commission.

Committee. For purposes of this ordinance, committee refers to the Waukesha County Land Conservation Committee. Earthen animal waste storage facility. A facility constructed of earth dikes, pits or ponds used for temporary storage of animal waste.

Earthen animal waste storage facility. A facility constructed of earth dikes, pits or ponds used for temporary storage of animal waste.

Maintenance. A nonstructural replacement or alteration of a portion of an animal waste storage system.

NR 243 complaint. A notice of an animal waste related discharge of significant amounts of pollutants to the waters of the state.

Permit. The signed, written statement issued by the zoning administrator under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, or substantially alter an animal waste storage facility, and to use or dispose of waste from the facility.

Permittee. Any person to whom a permit is issued under this ordinance.

Person. Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency within Wisconsin, the federal government, or any

combination thereof.

Repair. A structural replacement or alteration of a storage facility which changes or alters the design, construction or operation of the animal waste storage system.

SCS engineering job approval. A complex process of review and certification by qualified SCS engineers to determine the capability and technical competence of subordinate personnel to design, review and provide construction supervision for various soil and water conservation practices to be constructed under the terms of this ordinance and which may be modified from time to time based upon work experience, educational training, employment status and competence of those subordinates (see USDA, SCS National Engineering manual Title 210, Part 500).

Technical Guide. A technical publication published by the USDA Soil Conservation Service which sets forth minimum requirements or standards for various soil and water conservation practices utilized throughout the nation with variations of design criteria based upon localized condition.

Water pollution. Contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

Working day. A calendar day, except Saturdays, Sundays and state and federal recognized legal holidays, on which weather and other conditions not under the control of the contractor or Waukesha County, will permit construction operation to proceed with the normal working force.

Zoning administrator. Refers to the county zoning administrator designated by the Waukesha County Park and Planning Commission

SECTION 10.00. ADOPTION AND EFFECTIVE DATE

10.01. Public hearing.

Pursuant to and in accordance with the laws of the State of Wisconsin, the Waukesha County Land Conservation Committee and Waukesha County Park and Planning Commission held a public hearing on this ordinance on the twenty-seventh day of October, 1987

10.02. Land conservation committee recommendation.

The Waukesha County Land Conservation Committee has presented and recommended the adoption of this ordinance at a meeting held on the twentieth day of November, 1987.

10.03. County park and planning commission recommendation.

The Waukesha County Park and Planning Commission has presented and recommended the adoption of this ordinance at a meeting held on the nineteenth day of November, 1987.

10.04. County board approval.

The Waukesha County Board of Supervisors concurred with the recommendations of the land conservation committee and the county park and planning commission and adopted the animal waste management ordinance at a meeting held on the eighteenth day of December, 1987.

10.05. Effective date.

This ordinance shall take effect upon passage by the county board of supervisors and publication pursuant to section 59.09 of the Wisconsin Statutes and no earlier than January 1, 1988.

10.06. Conflicts.

All ordinances or parts of ordinances inconsistent with or in contravention of provisions of this ordinance are hereby repealed.